

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

NO. 5:20-CV-255-FL

This matter is before the court on defendant's motions to compel discovery responses (DE 43) and for extension of time to complete discovery and file dispositive motions. (DE 45). United States Magistrate Judge Brian S. Meyers, entered memorandum and recommendation ("M&R"), pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b), wherein it is recommended defendant's motion to compel be granted and that plaintiff's complaint be dismissed with prejudice, but that defendant's request for expenses be denied and defendant's motion for extension of time be denied as moot. Neither party filed objections to the M&R, and the time for objections has expired. In this posture, the issues raised are ripe for ruling.

Upon a careful review of the M&R, the court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Because no objections have been filed, the court reviews the magistrate judge’s findings and conclusions only for clear error, and need not give any explanation for adopting the M&R. Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005); Camby v. Davis, 718 F.2d 198, 200 (4th Cir. 1983).

The magistrate judge recommends granting defendant's motion to compel and awarding sanctions of dismissal, because plaintiff has demonstrated bad faith by refusing to follow the court's order and failing to meaningfully participate in discovery. No sanction less drastic than dismissal is appropriate because the court already issued an order in response to an initial motion to compel that did not result in plaintiff fulfilling his discovery obligations. The court also warned plaintiff of the sanction of dismissal. With respect to additional sanctions of expenses, the magistrate judge determined that an award of expenses would be unjust where plaintiff attempted responses, even though the responses were unsatisfactory.

Upon careful review of the M&R, the court finds the magistrate judge's analysis to be thorough, and there is no clear error. The court hereby ADOPTS the recommendation of the magistrate judge as its own. Defendant's motion to compel (DE 43) is GRANTED on the terms set forth in the M&R. In particular, plaintiff's complaint is DISMISSED WITH PREJUDICE as a sanction for failure to follow the court's order and failure to meaningfully participate in discovery. Defendant's request for expenses is DENIED. The clerk is DIRECTED to terminate as moot defendant's motion for extension of time (DE 45), and to close this case.

SO ORDERED, this the 11th day of May, 2023.



LOUISE W. FLANAGAN  
United States District Judge